CWP No.1786/2002.

24.04.2007 Present: Mr. K.D. Sood, Advocate for the petitioner.

Mr. M.S. Chandel, Advocate General with Mr. Ashuthosh Burathoki, Addl. Advocate General and Mr. M.A. Khan and Ms. Meenakshi, Dy. As. G. for respondents.

During the course of arguments, Mr. Kapil Dev Sood has submitted that his client is satisfied with the order dated 1st August, 2002, but he is only aggrieved that after the passing of this order dated 1st August, 2002, the respondents have initiated proceedings for evicting the petitioner from the suit land. Mr. Kapil Dev Sood submits that once the order dated 1st August, 2002 has been passed by the Financial Commissioner (Appeals), the same was to be taken to its logical end and the Sub Divisional Officer (C) was required to take action after conducting enquiry as per H.P. Regularization of Encroachment (in Certain Cases) of Government Land and disposal of Govt. Rules, 2002 and no steps were to be taken for evicting the petitioner from the suit land.

I have perused the record and heard the parties. There is substance in the submission of Mr. K.D. Sood. Once the order has been passed by the Financial Commissioner (Appeals) on 1st August, 2002 directing the Sub Divisional Officer (Civil) to take action after conducting inquiry as per H.P. Regularization of Encroachment (in Certain Cases) of Government Land and disposal of Govt. Rules, 2002, the petitioner could not be evicted from the land in question.

Accordingly, the writ petition is partly allowed and the respondents are directed to implement the order dated 1st August, 2002 and in the mean time the petitioner shall not be dispossessed from the suit land.

No order as to costs.

(Rajiv Sharma)
Judge

April 24, 2007.
(sck).

CWP No.351/2000.

24.04.2007 Present: Mr. Dushyant Dadwal, Advocate for the petitioner.

Mr. K.D. Sood, Advocate for respondent No.1.

Mr. M.S. Chandel, Advocate General with Mr. M.A. Khan and Ms. Meenakshi, Dy. As. G. for respondent No.2.

Mr. Sandeep Sharma, Asstt. Solicitor General of India for respondent No.3.

Mr. B.N. Gupta, Advocate for respondent No.4.

Arguments heard. Judgment reserved.

April 24, 2007 **(Rajiv Sharma)**
(sck) **Judge**

CWP No.732/2002.

24.04.2007 Present: Mr. Virender Thakur, Advocate vice counsel for the petitioner.

Ms. Shilpa Sood, Central Govt. Counsel for respondent No.1.

Mr. M.S. Chandel, Advocate General with Mr. Ashutosh Burathoki, Addl. A.G. and Mr. M.A. Khan and Ms. Meenakshi, Dy. As. G. for respondent No.2.

At the request of Mr. Virender Thakur, the matter is adjourned to six weeks.

April 24, 2007 **(Rajiv Sharma)**
(sck) **Judge**

CWP No.394/2002.

24.04.2007 Present: Mr. R.K. Gautam, Sr. Advocate with Mr. Anurag Sharma, Advocate for the petitioner.

Mr. M.S. Chandel, Advocate General with Mr. M.A. Khan and Ms. Meenakshi, Dy. As. G. for respondent No.1.

Mr.Bhuvnesh Sharma, Advocate for respondent No.2.

At the request of Mr. M.A. Khan, Deputy Advocate General the matter is adjourned for tomorrow the 25th April, 2007.

April 24, 2007
(sck)

(Rajiv Sharma)
Judge

CWP No.419/2002.

24.04.2007 Present: Mr. R.L. Sood, Sr. Advocate with Ms. Sanjeevni Sood, Advocate for the petitioners.

Mr. Rajinder Dogra, Advocate for respondent No.1.

Mr. M.S. Chandel, Advocate General with Mr. M.A. Khan and Ms. Meenakshi, Dy. As. G. for respondent No.2.

In sequel to order dated 18th April, 2007, Mr. R.S. Dogra has placed on record communication dated 12th September, 2006 whereby the consent has been renewed for the years 2006-07 to 2007-08. Mr. Dogra further submits that in view of this development the office order dated 6th March, 2002 looses its efficacy and will be deemed to have been withdrawn by respondent No.1. Order accordingly.

In view of the subsequent developments, the writ petition has become infructuous and the same is accordingly disposed of with no order as to costs. The copy of communication dated 12th September, 2006 is taken on record with the consent of parties.

April 24, 2007 **(Rajiv Sharma)**
(sck) **Judge**

CWP No.873/2002.

15.05.2007 Present: Mr. G.D. Verma, Sr. Advocate with Mr. B.C. Verma, Advocate for the petitioner.

Mr. M.S. Chandel, Advocate General with Mr. Ashutosh Burathoki, Addl. Advocate General and Mr. M.A. Khan and Ms. Meenakshi Sharma, Dy. As. G. for respondents No.1 to 3.

Ms. Devyani Sharma, Advocate for respondent No.4.

During the course of arguments, Ms. Devyani Sharma has submitted that the Society has been put under liquidation w.e.f. 3rd June, 1998. She further submits that once the petitioner-Society has been put under liquidation, the official liquidator alone could act on behalf of the Society and thus, the petition filed by the Society through Mr. B.B. Gupta is not maintainable. There is substance in the submission made by Ms. Devyani Sharma.

I have perused the record and heard the parities. I am of the confirmed view that once the Society had been put under liquidation only the official liquidator could file the present writ petition and the same filed through Shri B.B. Gupta is not maintainable.

Accordingly, the writ petition is dismissed being not maintainable. Before parting with the judgment, it is made clear that it will be open to the liquidator, if he deems proper, to file appropriate proceedings before the appropriate forum for redressal of the grievances of the petitioner-Society.

There shall be no order as to costs.

May 15, 2007 **(Rajiv Sharma)**
(sck) **Judge**

CWP No.348/2003.

24.04.2007 Present: Mr. M.S. Chandel, Advocate General with Mr. Ashutosh Burathoki, Addl. Advocate General and Mr. M.A. Khan and Ms. Meenakshi Sharma, Dy. As. G. for the petitioners.

Mr. R. D. Kaundal, Advocate for respondents No.2 & 3.

Arguments heard. Judgment reserved.

April 24, 2007 **(Rajiv Sharma)**
(sck) **Judge**

CWP No.373/2004.

24.04.2007 Present: Ms. Shilpa Sood, Advocate for the petitioner.

Mr. Shrawan Dogra, Advocate for the respondents.

The only submission made by learned counsel appearing on behalf of the petitioner is that before issue of impugned order no notice was issued. This submission is not denied by the learned counsel appearing on behalf of the respondent-Board.

I have been taken through the entire record by Ms. Shilpa Sood to substantiate her plea. I have not gone through any document which goes to show that the petitioner was called upon to show cause, but the recovery is sought to be made only on the basis of audit para. There is nothing on record to show which has resulted in the issuance of impugned order raising the demand. Accordingly the impugned order is quashed and set aside. Liberty is, however, reserved to the respondents-Board to issue show cause notice to the petitioner within a period of one month. Thereafter the same will be replied to by the petitioner within 15 days and thereafter final decision will be taken by the respondents-Board. The amount already deposited in the Registry will be adjusted at the time of adjudication of the lis.

April 24, 2007 **(Rajiv Sharma)**
(sck) **Judge**

CWP No.1057/2003.

24.04.2007 Present: Mr. Rakesh Thakur, Advocate for the petitioner.

Mr. Sandeep Sharma, Asstt. Solicitor General of India for the respondents.

Petitioner's claim for disability pension was rejected on 8th September, 1984. Feeling aggrieved by this order, the petitioner preferred an appeal to the competent authority on 15th October, 1984. The decision of the appellate authority was conveyed to the petitioner on 11th April, 1986 vide Annexure P-8.

Mr. Rakesh Thakur submits that order dated 11th April, 1986 is a non-speaking order.

I have perused the record and heard the parties. It is clear from the order dated 11th April, 1986 that the same is not a speaking order. It was incumbent upon the appellate authority to assign reasons in the order after taking into consideration the grounds taken in appeal. The appellate authority has to apply his own mind independently instead of reiterating the reasons assigned in the order appealed against.

Accordingly, the writ petition is partly allowed and the respondents are directed to reconsider the appeal of the petitioner and to pass a speaking order. In the eventuality, the petitioner being held entitled to disability pension, the arrears of pension will be payable to him with interest @ 9% per annum. The appellate

authority is directed to rehear the appeal within three months from the date of receipt of certified copy of the judgment. There shall be no order as to costs.

April 24, 2007 **(Rajiv Sharma)**
(sck) **Judge**

CWP No.112/2004.

24.04.2007 Present: Mr. Shrawan Dogra, Advocate for the petitioner.

Ms. Shilpa Sood, Central Govt. Counsel for respondent No.1.

Mr. K.D. Sood, Advocate for respondent No.2.

Dr. Lalit Sharma, Advocate for respondent No.3.

Arguments heard. Judgment reserved.

April 24, 2007 **(Rajiv Sharma)**
(sck) **Judge**

CWP No.348/2004.

24.04.2007 Present: Mr. Shrawan Dogra, Advocate for the petitioner.

Ms. Shilpa Sood, Central Govt. Counsel for respondent No.1.

Mr. K.D. Sood, Advocate for respondent No.2.

Dr. Lalit Sharma, Advocate for respondent No.3.

Arguments heard. Judgment reserved.

April 24, 2007 **(Rajiv Sharma)**
(sck) **Judge**

CWP No.814/2003.

24.04.2007 Present: Mr. Sanjay Jaswal, Advocate for the petitioner.

Mr. M.S. Chandel, Advocate General with Mr. M.A. Khan and Ms. Meenakshi Sharma, Dy. As. G. for respondents No.1, 2 and 2(A).

Mr. K. B. Khajuria, Advocate vice Mr. Janesh Mahajan, counsel for respondents No.3 and 4.

Arguments partly heard. For continuation list tomorrow the 25th April, 2007.

April 24, 2007 **(Rajiv Sharma)**
(sck) **Judge**

CWP No.747/2003.

24.04.2007 Present: Mr. Ramakant Sharma, Advocate for the petitioner.

Mr. Vinay Kuthiala, Advocate for the respondents.

Mr. Vinay Kuthiala appearing on behalf of the respondents seeks three weeks' time to file sur-rejoinder to the rejoinder filed by the petitioner. Prayer allowed. Sur-rejoinder be filed and matter be listed thereafter.

April 24, 2007 **(Rajiv Sharma)**
(sck) **Judge**

CWP No.399/2003.

24.04.2007 Present: None for the petitioner.

Mr. Sandeep Sharma, Assistant Solicitor General of India for the respondents.

Adjourned to next week.

April 24, 2007 **(Rajiv Sharma)**
(sck) **Judge**

CWP No.104/2003.

24.04.2007 Present: Mr. N.D. Sharma, Advocate for the petitioner.

Mr. Sandeep Sharma, Assistant Solicitor General of India for the respondent No.1.

Mr. M.S. Chandel, Advocate General with Mr. M.A. Khan and Ms. Meenakshi Sharma, Dy. As. G. for respondent No.2.

Arguments heard. Judgment reserved.

April 24, 2007 **(Rajiv Sharma)**
(sck) **Judge**

CWP No.1070/2004.

24.04.2007 Present: Mr. Vivek Thakur, Advocate for the petitioner.

Mr. Ramakant Sharma, Advocate for respondents.

Arguments heard. Judgment reserved.

April 24, 2007 **(Rajiv Sharma)**
(sck) **Judge**

CWP No.1132/2004.

24.04.2007 Present: Mr. Ajay Mohan Goel, Advocate for the petitioner.

Mr. M.S. Chandel, Advocate General with Mr. M.A. Khan and Ms. Meenakshi Sharma, D. As. G. for respondents No.1 and 2.

Mr. K.D. Sood, Advocate for respondents No.3 and 4.

Mr. Ajay Mohan Goel submits that the case of the petitioner is at par with the case of Mr. S.C. Khita, in whose favour a decision has already been taken vide Annexure P-15 on 28th August, 2002. Ms. Meenakshi Sharma, Dy. A.G. seeks a week's time for getting instructions whether the petitioner can also be held entitled to the relief which has already been granted in favour of Mr. S.C. Khita, i.e. release of award of selection grade of Rs.12000-18300 w.e.f. 14th July, 1996. Prayer allowed. Ms. Meenakshi Sharma may seek instructions from the Director of Education and the Court be apprised accordingly.

List day after tomorrow i.e. on 26th April, 2007.

April 24, 2007 **(Rajiv Sharma)**
(sck) **Judge**